

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Bruce & Patricia Garbe,**  
Appellants,

**v.**

**Woodbury County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-97-0065**  
**Parcel No. 8946-29-300-020**

On November 20, 2013, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Bruce and Patricia Garbe were self-represented. Woodbury County Assessor Kathy Sands represented the Board of Review and participated by telephone. The Appeal Board having reviewed the record, heard the testimony, and being fully advised finds:

***Findings of Fact***

Bruce and Patricia Garbe are the owners of a residentially classified property located at 1498 Buchanan Avenue, Sioux City, Iowa. The property is a single-story home built in 1996 with 1848 square feet of total living area. The property has a 768 square-foot detached garage built in 1964, a 2438 square-foot steel utility building, and a 323 square-foot shed. The improvements are listed as of average quality grade (4) and in normal condition. The site is 2.37 acres, rated as above normal (AN) for the first acre and normal (N) for the remaining acres.

The Garbes protested to the Board of Review regarding the 2013 assessment of \$141,810, allocated as \$28,750 in land value and \$113,060 to the improvement value. They claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2).

They asserted the subject property's correct value was \$136,060, allocated as \$23,000 in land value and \$113,060 in improvement value. The Board of Review denied their claim.

The Garbes then appealed to this Board re-asserting their claim. At hearing, the Garbes clarified their claim. They assert the site value is over-assessed, but they do not contest the assessed improvement value.

Bruce Garbe explained he is an appraiser for the City of Sioux City Assessor's office. He stated when they purchased the property in December 2011 for \$140,000 he knew some items on the improvement section of the property record card were not listed correctly, because of his experience. He therefore asked the Woodbury County Assessor's Office for a review of the property, which resulted in corrections to the listing. The corrections reduced the improvement value. However, the land value then increased. In Garbe's opinion this was done to offset to the lower improvement value.

Woodbury County Assessor Kathy Sands explained that when Garbe requested a review of his property her office made corrections to the listing, which reduced the value of the improvements. Further, upon inspection, an error was noted in the site listing. She explained the history of the corrections and referred to a copy of the 2012 PAAB decision regarding this property. (Exhibit 7). Prior to the inspection, the subject site was listed as being located on a gravel road when in fact it is located on a paved road. Therefore, the 2012 assessment of the subject site was corrected from an N to an AN rating to reflect its location on a paved road. This resulted in the subsequent increase in land value that Garbe is protesting. Sands also emphasized the assessed value was not changed because of the sale.

Sands further explained that in 2010 a countywide land analysis was conducted, resulting in a change in the tables they use for valuation and it was at that time the Garbes' property was listed incorrectly. Because of the 2010 land analysis, the first acre of all rural residential acreages is valued at \$25,000 an acre and adjusted as necessary for other value influencing factors.

Garbe submitted twenty-two property record cards from Woodbury County, which he believes demonstrates his site is valued differently. Garbe explains that Exhibits A1 to A4, and A6, A7, and A9 are assessed at \$25,000 for the first acre and \$2000 for each additional excess acre. Exhibits A5, a two-acre site and A8, a one-acre site, in his opinion are assessed differently because their site values are \$22,000 and \$20,000 respectively. Therefore, Garbe contends they do not conform with the \$25,000 first-acre assessments that he asserts were applied to the previous exhibits.

He also submitted several properties that are located closer to Merville, Iowa, which he stated are approximately 15 to 18 miles from his property. (Exhibits B1-B9). Again, he asserts these properties site values are assessed at \$25,000 for the first acre and roughly \$2000 for each excess acre. Sands explained the Merville properties are located in a “completely different market area,” requiring a 90% map factor to these properties compared to the properties in Garbe’s area, one mile from Sioux City that is in the market area that requires a 105% map factor adjustment. Because these properties are located in a different market area, we do not find them relevant to the valuation of the subject site.

Garbe also notes the property located at 1383 Highway 140 (Exhibit B7) sold in February 2012 for \$258,500; however, he asserts the 2012 assessment was only \$208,980, and in his opinion there was no adjustment to bring the assessment in line with the sale price, which is what he believes was done to his property. First, we note the 2013 total assessment of 1383 Highway 140 is \$228,620. Further, we note as Sands has explained, assessments do not change simply because of the sale of a property, which would be improper.

Garbe makes the same assertion about 1523 140th Street (Exhibit C) and 1491 Charles Avenue (Exhibit D). He notes both of these properties have sold with no upward adjustments to the assessments to reflect the sales prices. 1491 Charles Avenue sold in January 2009 for \$155,000, and its assessed value of \$116,090 has remained unchanged since 2010. He notes 1523 140th Street sold in June 2011 for \$137,500. However, its assessment has remained at \$116,230 since 2011 to its current

2013 assessment, with no increases to reflect the sales price. Sands testified her office inspected 1523 140th Street and arrived at the assessed value based on that inspection. In her opinion, the buyers simply overpaid for the property. Like Sands, we note it would be improper for the assessor's office to change valuations solely based on the sale of a property. We also note Garbe's testimony established the modification of the subject property's assessment was due to his request for a property inspection, not the fact that the property sold, and the modification resulted in an overall downward adjustment after correction for listing errors.

Garbe also appears to assert his property is inequitably assessed compared to 4750 210th Street. (Exhibit E). He believes the properties are comparable but the subject has an assessed value for its improvements of \$61.17 per-square-foot compared to \$38.69 per-square-foot for 4750 210th Street. First, we note Garbe does not have an equity claim under Iowa Code section 441.37(1)(a)(1) before this Board. Secondly, as Garbe testified, his property has outbuildings that 4750 210th Street does not. Because both properties are residentially classified, all of the improvements (residence and any outbuildings) are assessed and considered in the improvement value. Therefore, because the outbuilding configurations are different between the two properties, this could explain the discrepancy that Garbe identifies. Additionally, Sands does not consider 4750 210th Street to be a comparable property primarily because it is located on the far side of the county with a map factor of 65% for its location. Further, it is located on a gravel road compared to the subject's location on a paved road.

Garbe also questions why 1500 Buchanan Avenue (Exhibit A7), which sits directly behind his property, has a lower value on the excess land because it sits off the road. He compares this to 1522 Buchanan Avenue (Exhibit F), which he notes is also located behind another property, but treated differently than 1500 Buchanan Avenue. Again, this evidence appears to be of greater relevance to an equity claim, which is not before this Board. Further, Garbe does not explain how this results in the over-assessment of his property.

Sands explained 1522 Buchanan Avenue (Exhibit F) was adjusted because the driveway has a steep downgrade. For this reason, the excess site acres were adjusted to reflect the less than ideal access and increased maintenance costs. Sands further explained Garbe appears to assume the adjustments to 1522 Buchanan and 1500 Buchanan should be the same simply because each property sits behind another property. However, she stated her office evaluates the property as a whole and considers a number of factors in the rating and ultimate valuation of each site. The factors include, but are not limited to, the location, the size, the use, and the access to the excess site.

Sands provided Exhibit 4, a rural residential sales-ratio report for 2011 and 2012. (Exhibit 4). The median for all rural residential sales in Woodbury County was 100.06, and 95.67 in the Garbes' Concord Map Area. In Sands' opinion, this demonstrates the assessments are equitable. While it shows assessed values and sales prices are closely aligned, we do not find this evidence relevant because it relates to an equity claim, which is not before us. Further, Garbe is only claiming the site is over-assessed and the sales are improved.

Garbe asserts he is attempting to point out the inconsistency of land values; which again, is an equity claim. However, it does not appear he considered the numerous factors, pointed out by Sands, which are part of the valuation process. Garbe's method of comparison simply takes the assessed site value and subtracts a \$25,000 first-acre value. He then divides the remaining value by the excess site to determine a per-acre value for the excess. However, we find that without identifying the different factors considered in the overall site analysis, this is an incorrect examination of the data. Ultimately, Garbe submits evidence and testimony asserting his site is not equitably assessed, rather than demonstrating the market value of the subject site using sales.

Although the Garbes submitted numerous properties they considered in attempt to show inconsistent site values, this evidence is insufficient to show their property is over-assessed. Ultimately, the only evidence of the subject property's fair market value is the 2011 sale for \$140,000.

Although the sale of the subject does not conclusively establish a property's market value under Iowa law, it is a matter to be considered and, in this case, tends to suggest the property is not over-assessed.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value.

but does not *conclusively* establish the subject's market value. *Id.* at 290. If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered.

§ 441.21(2). The property's assessed value shall be one hundred percent of its actual value.

§ 441.21(1)(a).

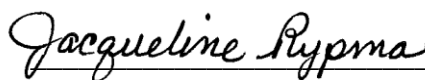
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Garbes did not provide any evidence establishing the subject property's fair market value as of January 1, 2013, and thus have failed to show their property is over-assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of Bruce and Patricia Garbe's property located at 1498 Buchanan Avenue, Sioux City, Iowa of \$141,810, set by the Woodbury County Board of Review, is affirmed.

Dated this 3rd day of January, 2014.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member

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